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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/764,230 | 01/23/2004 | Edward G. DiMaggio | D03-0264 | 8496 |
| 27257 | 7590 | 09/15/2004 | EXAMINER | |
| THOMAS S. KEATY KEATY PROFESSIONAL LAW CORP. 2140 WORLD TRADE CENTER NO. 2 CANAL STREET NEW ORLEANS, LA 70130 | | | RAMIREZ, RAMON O | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3632 | | |
| DATE MAILED: 09/15/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/764,230 | DIMAGGIO, EDWARD G. |
| | Examiner RAMON O. RAMIREZ | Art Unit 3632 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 1/23/04.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 1/23/04 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/23/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Detailed Action

This is the first Office Action corresponding to original filing. The application contains 18 claims.

Information Disclosure Statement

Receipt is acknowledged of Information Disclosure Statement, which has been reviewed by the Examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 6, and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Frank (Pat No 1,331,427).

The instant claims recite a connector having three sections, and a suction cup having a knob receiving the one of the three sections.

The patent to Frank shows a connector (4) having three sections (one attached to element 2, one attached to element 3 and one in the middle), and a suction cup (3) having a knob receiving one of the sections of the connector. The connector shown by Frank is capable of supporting a discharge nozzle, and the suction cup of being supported on a

sink. As to the method claims, the device shown by Frank can be used following the recited steps.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank. The angle at which the middle portion of the connector extends, as well as its dimensions are considered to be obvious matter of engineering choice to those skilled in the art having no effect on how the invention is being used.

Claims 5, and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank in view of Thorne et al. (Pat No 5,492,739).

The patent to Thorne et al. shows a suction cup (11) having a knob portion (15) and a connector defining a hook portion (19) to be received to the knob portion of the suction cup. It would have been obvious to one skilled in the art at the time the invention was made to have provided the connector shown in Frank with a hook portion as shown by Thorne et al. as an alternative engaging means which is easy to use.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Philipps et al. (5,028,026), Zelinger (5,148,769), Protz, Jr (5,595,364), Lian (6,669,033), Adams, IV (2001/0040202 A1) and Dretzka (2003/0201369 A1) all show brackets comprising a connector and a suction cup.

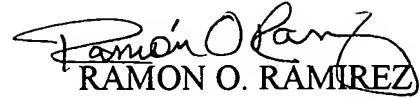
Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (703) 308-0748. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESLIE BRAUN can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3632

A shortened period for response to this Office Action expires THREE MONTHS
from the mailing date of this action.



RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632

ROR
September 14, 2004